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11 Attorneys for Defendants

12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

15 CHRISTOPHER WAGNER, an
16 individual,

17 Plaintiff,

18 v.
19

20 DIGITAL PUBLISHING
21 CORPORATION, a Delaware corporation,
et al.

22 Defendants.
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No. 13-cv-04952-WHA

**DECLARATION OF DANIEL BERGER
IN SUPPORT OF RESPONSE TO
PLAINTIFF'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
RE: NONPREEMPTION**

The Honorable William A. Alsup
Hearing Date: December 12, 2013
Time: 8:00 a.m.
Location: Courtroom 8 - 19th Floor

1 I, Daniel Berger, declare as follows:

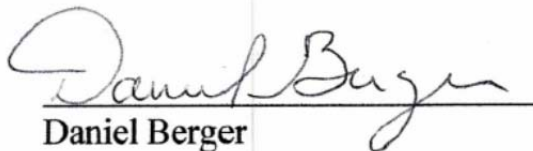
2 1. I am general counsel for Spire Vision LLC, Digital Publishing Corporation,
3 Juniper Marketing LLC, Mediactivate LLC, On Demand Research LLC, Prime
4 Advertisers LLC, Serve Clicks LLC, Ward Media Inc., XL Marketing Corp., and Spire
5 Vision Holdings Inc. (and by virtue thereof Achieve Opportunities LLC , Agreewizard
6 LLC, Furturesdrive LLC, Junctionlights LLC, Opportunity Central LLC, Paths Direct
7 LLC, Pullsmart LLC, and Youradshire LLC). I am over the age of eighteen (18) years,
8 and competent to testify to the matters stated herein.

9 2. Defendant Spire Vision LLC operates an email network enabling advertisers to
10 leverage behavioral and category-specific targeting to reach defined audience segments.
11 Its affiliates include Defendants Spire Vision LLC, Digital Publishing Corporation,
12 Juniper Marketing LLC, Mediactivate LLC, On Demand Research LLC, Prime
13 Advertisers LLC, Serve Clicks LLC, Spire Vision Holdings Inc., Ward Media Inc., XL
14 Marketing Corp., Achieve Opportunities LLC , Agreewizard LLC, Furturesdrive LLC,
15 Junctionlights LLC, Opportunity Central LLC, Paths Direct LLC, Pullsmart LLC, and
16 Youradshire LLC (collectively, "the Spire Vision Family"). The Spire Vision Family's
17 targeted email advertising messages are 100% permission based.

18 3. The Spire Vision Family disputes Plaintiff's claim that he did not consent to
19 receive emails from them.

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21 I declare under penalty of perjury that the foregoing is true and correct.

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23 Executed this 21st day of November 2013 in Washington, DC.

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26 
27 Daniel Berger
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